

From: Steve Anichini
To: Microsoft ATR
Date: 1/23/02 9:43am
Subject: Microsoft Settlement

I've been a professional software engineer for 8 years, and by professional necessity I am very familiar with Microsoft's actions over that period. I feel that when Microsoft relies solely on its technical prowess to compete, it helps the industry. The fact is too often Microsoft falls upon questionable legal and business tactics, and this hurts the industry. I feel the proposed settlement does not go far enough to deal with the latter.

Specific issues that have affected me and the companies I've worked for:

Microsoft discriminates against ISVs who ship Open Source applications:

the following license terms accompany many Microsoft APIs and programming toolkits (for example, the Microsoft Platform SDK, the Microsoft Windows Media Encoder SDK, and the Microsoft X-Box SDK):

"... you shall not distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux) or similar licensing or distribution models ... Publicly Available Software includes, without limitation, software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); The Artistic License (e.g., PERL); the Mozilla Public License; the Netscape Public License; the Sun Community Source License (SCSL); ..."

This language, whether or not it actually prohibits the use of Open Source software with various Windows components, produces a chilling effect with the various corporate legal departments of companies I've worked for - they don't want to take the risk of a lawsuit and just blanket prohibit using Open Source.

When working for a company that was entering a business relationship directly with Microsoft, we were told straight out that the product we were developing could not include any Open Source technology and it could not use Sun's Java technology. Microsoft was just one of the many partners we worked with, and Open Source and Java were key elements of the technology we were working with. Removing these elements would have caused great expense to the company without compensation. As a result, the part of the deal which depended on Java (an interactive CD-ROM product) was cancelled. The company in question laid off 95% of its staff soon after.

I think Microsoft should be prohibited from discouraging/prohibiting use of competitor's products with Microsoft's products.

I think that the settlement needs to be expanded to force Microsoft to give up all its Windows APIs and file formats (Word, Excel) to some standardizing body. Patents that these technologies depend upon should be freely licensible. These formats and APIs should become public property - when this happens, competition can emerge for things such as Office on a more level playing field. Microsoft will still remain competitive in such an environment, but this will allow others to use this information to compete with Microsoft and keep it honest.

-Steve Anichini